D.B.CIVIL SPECIAL APPEAL No.377 /2005
Guman Singh & ors. v. Board of Revenue & ors.

Date of order : 11.08.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Sudhir Sharma for the appellants
Shri Rameshwar Dave, Dy. Govt. Advocate

This appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellants. The appellants had challenged the orders of the revenue authorities in a proceeding under section 88 of the Rajasthan Tenancy Act, 1955 instituted by them for declaration of their khatedari rights. Section 15 of the Act refers to khatedar tenants, and in terms of the provisions thereof the person claiming khatedari right is required to prove that he was in cultivating possession of the land on the date of commencement of the Act. The appellants relied on khasra girdawari and khatauni parcha. As regards khasra girdawari the authorities came to the conclusion that they were in the name of Jai Singh and appellants had failed to establish their relationship with him. Khatauni parcha was no doubt in the name of appellants' father but they are not regarded as record of rights. Besides, they appertained to latter period. Evidence on record disclosed that the appellants' ancestors were in possession

of the land as encroachers for some time. Counsel attempted to find fault with the findings, but finding of fact cannot be challenged in writ jurisdiction. No error of law was pointed out. We are in agreement with the learned Single Judge that the matter is concluded by concurrent finding of fact and there is no scope for interference in the present proceedings.

Appeal is accordingly dismissed.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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